

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JOSEPHINE T. HEARTWELL,

Plaintiff,

v.

PRUDENTIAL INSURANCE COMPANY OF
AMERICA,

Defendant.

No. C 10-04751 CW

ORDER CONCERNING
FURTHER
PROCEEDINGS AND
REFERRING CASE TO
MAGISTRATE JUDGE
DONNA RYU FOR
SETTLEMENT
CONFERENCE

PRUDENTIAL INSURANCE COMPANY OF
AMERICA,

Third-Party Plaintiff,

v.

GEORGE E. HEARTWELL, SR.,

Third-Party Defendant.

Pro se Plaintiff Josephine T. Heartwell alleges that she, as the widow of George E. Heartwell, Jr., and Corinne J. Heartwell, as the decedent's minor child, are entitled to the death benefit provided under his Servicemembers' Group Life Insurance policy, which was offered by Defendant Prudential Life Insurance Company of America. George E. Heartwell, Sr., has made a claim to the same benefit. Prudential has answered Plaintiff's complaint and brings, in interpleader, a counterclaim against Plaintiff and a third-party complaint against George E. Heartwell, Sr. Prudential states that it cannot determine who is entitled to the benefit and that it has no interest in the benefit. Prudential asks the Court to determine

1 to whom the benefit should be paid. Plaintiff and George E.
2 Heartwell, Sr., who is also proceeding pro se, have answered
3 Prudential's pleadings.

4 On February 8, 2011, Plaintiff and Prudential appeared at the
5 initial case management conference. George E. Heartwell, Sr., who
6 apparently resides in Princeton, West Virginia, did not appear;
7 however, his answer was filed on that day.

8 At the hearing, the Court referred this case to Magistrate
9 Judge Donna Ryu for a settlement conference, which will be held by
10 May 9, 2011, or as soon thereafter as is convenient to the
11 Magistrate Judge's calendar; the Magistrate Judge will set the date
12 of the settlement conference. Plaintiff and George E. Heartwell,
13 Sr., shall appear at the settlement conference. If George E.
14 Heartwell, Sr., can demonstrate to Magistrate Judge Ryu that
15 appearing in person at the settlement conference would cause him
16 financial hardship, he may file a motion to appear by telephone.
17 Prudential may lodge, if necessary, a short settlement conference
18 statement and the form of release it needs; it shall be reachable
19 by telephone on the day of the settlement conference.

20 A further case management conference is scheduled for June 7,
21 2011 at 2:00 p.m. Plaintiff and George E. Heartwell, Sr., must
22 attend this further case management conference, if this case has
23 not settled. Prudential may appear by telephone.

24 The death benefit, which apparently is \$400,000, will be
25 reduced by any attorneys' fees and costs incurred by Prudential in
26 litigating this lawsuit. Plaintiff and George E. Heartwell, Sr.,
27 are warned that such fees and costs may significantly diminish any

1 award under the decedent's policy, regardless of who is the
2 ultimate recipient. Prudential is asked to minimize its legal
3 expenses in this action.

4 IT IS SO ORDERED.

5
6
7 Dated: 2/10/2011



CLAUDIA WILKEN
United States District Judge

8
9
10 cc: Sue, DMR

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

HEARTWELL et al,

Case Number: CV10-04751 CW

Plaintiff,

CERTIFICATE OF SERVICE

v.

PRUDENTIAL INSURANCE COMPANY OF
AMERICA et al,

Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on February 10, 2011, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

George E Heartwell
218 Heuser Ave.
Princeton, WV 24740

George E Heartwell
218 Heuser Avenue
Princeton, WV 24740

Josephine T. Heartwell
15024 Costela Street
San Leandro, CA 94579

Dated: February 10, 2011

Richard W. Wieking, Clerk
By: Nikki Riley, Deputy Clerk